

ORDINANCE NO. 47-15 (Second Amended)

AN ORDINANCE OF THE CITY OF WEST LAFAYETTE, INDIANA, AUTHORIZING THE ISSUANCE OF THE CITY OF WEST LAFAYETTE, INDIANA, TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2016 (STATE STREET REDEVELOPMENT PROJECT), AND CREDITING THE PROCEEDS THEREOF TO WEST LAFAYETTE COMMUNITY DEVELOPMENT CORPORATION, AND AUTHORIZING AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the City of West Lafayette, Indiana (the “City”), is a political subdivision of the State of Indiana and by virtue of I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the “Act”), is authorized and empowered to adopt this ordinance (the “Bond Ordinance”) and to carry out its provisions; and

WHEREAS, West Lafayette Community Development Corporation, or an affiliate thereof (the “Borrower”), desires to finance all or a portion of the proposed redevelopment of State Street (formerly State Route 26) from the Wabash River through the City of West Lafayette’s downtown and Purdue University’s campus to U.S. 231 on the west (the “Project”), which will be located in the Levee/Village Redevelopment Area and the 231 Purdue Economic Development Area (collectively, the “Area”), created by the West Lafayette Redevelopment Commission in the City (the “Redevelopment Commission”), which Project the Borrower anticipates leasing to the Redevelopment Commission; and

WHEREAS, the Borrower has advised the West Lafayette Economic Development Commission (the “Economic Development Commission”) and the City that it proposes that the City issue its Taxable Economic Development Revenue Bonds, Series 2016 (State Street Redevelopment Project), in one or more series (with an appropriate series designation for each series), in an aggregate principal amount not to exceed Seventy-Eight Million Dollars (\$78,000,000) (the “Bonds”), with the first series of bonds to be in an aggregate principal amount not to exceed Seventy-Three Million Dollars (\$73,000,000) under the Act and credit the proceeds of such Bonds to the Borrower for the purpose of financing the Project; and

WHEREAS, the completion of the Project results in the diversification of industry, the creation or retention of jobs and the creation or retention of business opportunities in the City; and

WHEREAS, pursuant to I.C. § 36-7-12-24, the Economic Development Commission published notice of a public hearing (the “Public Hearing”) on the proposed issuance of the Bonds to finance the Project; and

WHEREAS, on December 7, 2015, the Economic Development Commission held the Public Hearing on the Project; and

WHEREAS, the Economic Development Commission has performed all actions required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to the Common Council the forms of a Trust Indenture, Deposit Agreement, Note, Financing Agreement and other financing documents (collectively, the “Financing Agreements”).

NOW, THEREFORE, BE IT ORDAINED by the City of West Lafayette Common Council as follows:

Section 1. Findings; Public Benefits. The Common Council hereby finds and determines that the Project involves the acquisition, construction, renovation and equipping of an “economic development facility” as that phrase is used in the Act; that the Project will increase or retain employment opportunities and increase diversification of economic development in the City, will improve and promote the economic stability, development and welfare in the City, will encourage and promote the expansion of industry, trade and commerce in the City and the location of other new industries in the City; that the public benefits to be accomplished by this Bond Ordinance, in tending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public services (as that phrase is used in the Act) which will be required by the Project; and, therefore, that the financing of the Project by the issuance of the Bonds under the Act: (i) will be of benefit to the health and general welfare of the City; and (ii) complies with the Act.

Section 2. Approval of Financing. The proposed financing of the Project by the issuance of the Bonds under the Act, in the form that such financing was approved by the Economic Development Commission, is hereby approved.

Section 3. Authorization of the Bonds. The issuance of the Bonds, payable solely from revenues and receipts derived from the Financing Agreements, is hereby authorized; *provided that* any additional series of Bonds issued hereunder require an additional ordinance by this Common Council approving the issuance of such additional series.

Section 4. Terms of the Bonds. (a) The Bonds, in the aggregate principal amount not to exceed Seventy-Eight Million Dollars (\$78,000,000), with the first series not exceeding Seventy-Three Million Dollars (\$73,000,000) shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Mayor and the Clerk of the City; (ii) be dated as of the date of their delivery; (iii) mature on a date not later than twenty-five (25) years after the date of issuance; (iv) bear interest at such rates as determined through negotiation with the purchaser thereof, with such interest payable as provided in the Financing Agreements; (v) be issuable in such denominations as set forth in the Financing Agreements; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Financing Agreements; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office as provided in the Financing Agreements; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Agreements; (xi) be issued in one or more series; and (xii) contain such other terms and provisions as may be provided in the Financing Agreements.

(b) The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the City, but shall be special and limited obligations of the City, payable solely from revenues and other amounts derived from the Financing Agreements. Forms of the Financing Agreements are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Clerk of the City is hereby directed, in the name and on behalf of the City, to insert them into the minutes of the Common Council and to keep them on file.

Section 5. Sale of the Bonds. The Mayor and the Controller of the City are hereby authorized and directed, in the name and on behalf of the City, to sell the Bonds to a purchaser or purchasers selected by such officers at such prices and on such terms as may be determined at the time of sale.

Section 6. Execution and Delivery of Financing Agreements. The Mayor and the Clerk of the City are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse and deliver the Promissory Note from the Borrower to the City, the Indenture, the Deposit Agreement, the Financing Agreement, and the Bonds, submitted to the Common Council, which are hereby approved in all respects.

Section 7. Changes in Financing Agreements. The Mayor and the Clerk of the City are hereby authorized, in the name and on behalf of the City, without further approval of the Common Council or the Economic Development Commission, to approve such changes in the Financing Agreements as may be permitted by Act, such approval to be conclusively evidenced by their execution thereof.

Section 8. General. The Mayor and the Clerk of the City, and each of them, are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or any of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the Project, the issuance and sale of the Bonds, and the securing of the Bonds under the Financing Agreements, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 9. Binding Effect. The provisions of this Bond Ordinance and the Financing Agreement securing the Bonds shall constitute a binding contract between the City and the holders of the Bonds, and after issuance of the Bonds this Bond Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid.

Section 10. Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 11. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon adoption and compliance with I.C. § 36-2-6.

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If you have questions about this, please contact the Office of the Clerk-Treasurer at clerk@westlafayette.in.gov.
Thank you.